into the contract on which judgment was obtained against her. He relied on *Re Lai Ah Sen*[9], where Spenser Wilkinson, J., said:

"In Manickam Ammal's case the widow possessed no separate property during coverture and it is clear that the judgment in that case was largely based upon that fact.

In the present case it is clear that the bankrupt did have separate property at the time when she contracted the debt upon which the judgment is based. The decision in the case of Manickam Ammal therefore does not apply."

It would appear from this passage that Spenser Wilkinson, J., was of the opinion that, if a married woman had separate property at the date of the contract upon which the judgment is based, that would be sufficient to make her subject to the Bankruptcy Ordinance. That opinion seemed to be derived from the erroneous view of McElwaine, C.J. With all due respect to Spenser Wilkinson, J., I considered it to be untenable. I accordingly rejected counsel's contention.

Lastly, it was contended by counsel for the petitioning creditors that, as the debtor had separate property during coverture at the date of the judgment obtained against her, it did not matter if the judgment was in the *Scott* v. *Morley* form. That contention was founded on the following passage from the judgment of McElwaine, C.J. at page 94:

"The judgment against her was a judgment *in rem* .... There was no *res* and no judgment *in personam* and there must be either a *res* or a judgment *in personam* before a woman who was married at the date of the contract can be adjudicated bankrupt for non-compliance with a bankruptcy notice."

Counsel submitted that, according to this passage, if there is no judgment *in personam*, it is sufficient if there is a *res*, that is, separate property during coverture. I was unable to accept this submission. In my opinion, even if it is proved that a married woman has separate property at the time of the hearing of the bankruptcy petition, that is not enough. The act of bankruptcy alleged in the petition must also be proved. Non-compliance with a bankruptcy notice based on a judgment in the *Scott* v. *Morley* form is not an act of bankruptcy.

It was for these reasons that I dismissed the bankruptcy petition with costs.

It must be pointed out here that the terms judgment *in rem* and judgment *in personam* are used incorrectly in the passage set out above. The distinction between a judgment *in rem* and a judgment *in personam* is thus explained in *Halsbury's Laws of England* (3rd Edition), Vol. 22, page 742.

"A judgment *in rem* may be defined as the judgment of a Court of competent jurisdiction determining the status of a person or thing, or the disposition of a thing, as distinct from the particular interest in it of a party to the litigation.

A judgment *in personam* determines the rights of the parties *inter se* to or in the subject matter in dispute, whether it be corporeal property of any kind whatever, or a liquidated or unliquidated demand, but does not affect the status of either persons or things, or make any disposition of property, or declare or determine any interest in it except as between the parties litigant.

Judgments *in personam* include all judgments which are not judgments *in rem*, but, as many judgments in the latter class deal with the status of persons and not of things, the description judgments *inter partes* is preferable to judgments *in personam*."

Petition dismissed.

Solicitors: *Lee & Lee; Muthu & Co.*

X.Y. v. THE COMPTROLLER OF INCOME TAX, SINGAPORE

[C.A. (Rose C.J., Tan Ah Tah and Chua JJ.) April 14, 1961]

[Singapore — Civil Appeal No. 16 of 1960]

Practice and Procedure — Specially indorsed writ — Income Tax matter — Writ signed by Assistant Comptroller of Income Tax describing himself as "plaintiff in person" — Whether there was contradiction on the face of the writ as to identity of plaintiff.

Income Tax Ordinance (Cap. 166), ss.2 and 90 — "Comptroller."

In a suit instituted under section 90(1) of the Income Tax Ordinance, provided the action is brought in the official name of the Comptroller, the writ and statement of claim may properly be signed either by the Comptroller of Income Tax himself or by a Deputy Comptroller or an Assistant Comptroller.

Decision of Buttrose J. in the Court below ([1960] M.L.J. 136) affirmed.

Case referred to:—

(1) *Comptroller of Income Tax* v. *Dia Singh* [1960] M.L.J. 135.

COURT OF APPEAL.

S. H. D. Elias for the appellant.

Lim Chor Pee (Crown Counsel) for the respondent.

Cur. Adv. Vult.

Rose C.J. (with whom **Tan Ah Tah** and **Chua JJ.** agreed): This is an appeal from a decision of the learned trial Judge dismissing the summonses in two cases between the present appellant and the respondent.

In the present appeal we are concerned only with summons in chambers No. 175 of 1960 in Suit No. 303 of 1958.

The writ in this suit, which was specially endorsed, was issued against the appellant on the 13th March, 1958 and judgment was entered on the 22nd of March, 1958 in default of appearance. The judgment has been satisfied in full but on the 22nd of February, 1960 the summons presently under consideration and that in Suit No. 304 of 1958 were taken out.

The writ of summons was headed "Between The Comptroller of Income Tax, Singapore, Plaintiff and X. Y. Defendant" and was signed at the foot "W. Gordon, Asst. Comptroller of Income Tax, Singapore, Plaintiff in Person". The Statement of Claim was signed in the same way i.e. "W. Gordon, Asst. Comptroller of Income Tax, Singapore, Plaintiff in Person."

It is contended on behalf of the appellant that the writ and the statement of claim should have been signed by the Comptroller of Income Tax in person.

Section 90 (1) of the Income Tax Ordinance (Cap. 166) reads as follows :—

"90.—(1) Subject to the provisions of section 85 of this Ordinance, tax may be sued for and recovered in a Court of competent jurisdiction by the Comptroller in his official name with full costs of suit from the person charged therewith as a debt due to the Crown."

Under the Rules of the Supreme Court a writ and a statement of claim must be signed either by the plaintiff's solicitor or by the plaintiff himself if, as in the present matter, he sues in person and the point for consideration is whether the signature by an Assistant Comptroller is protected by the definition of "Comptroller" contained in section 2 of the Ordinance, which reads as follows :—

"2. In this Ordinance, unless the subject or context otherwise requires—

'Comptroller' means the Comptroller appointed under section 5 of this Ordinance and includes, for all purposes of this Ordinance except the exercise of the powers conferred upon the Comptroller by sections 95, 96 and 99 of this Ordinance, a Deputy Comptroller or an Assistant Comptroller so appointed;".

With regard to section 90 (2) of the Ordinance which reads :—

"(2) The Comptroller may appear personally or by counsel in any suit instituted under this section",

it has already been decided in *The Comptroller of Income Tax, Singapore* v. *Dia Singh*[1] that the phrase "The Comptroller" includes a Deputy Comptroller or an Assistant Comptroller.

As the present matter is a suit instituted under section 90 (1) of the Income Tax Ordinance, I am of opinion that, provided the action is brought in the official name of the Comptroller, as was done in the present matter, the writ and statement of claim may properly be signed either by the Comptroller of Income Tax himself or by a Deputy Comptroller or an Assistant Comptroller.

I do not consider that the addition of the words "Plaintiff in Person" at the foot of Mr. Gordon's signature on the writ and on the statement of claim affects the position, as, to my mind, those words merely explain that the Assistant Comptroller is signing in his capacity as plaintiff, whose official name (in which the action must be brought) is the Comptroller of Income Tax, Singapore, as is correctly stated in the writ.

It seems to me that the decision in *The Comptroller of Income Tax, Singapore* v. *Dia Singh* in regard to section 4 of the Bankruptcy Ordinance is distinguishable in that in that case the petition was brought under the Bankruptcy Ordinance and not the Income Tax Ordinance and there is no provision in the Bankruptcy Ordinance analogous to that contained in the interpretation section of the Income Tax Ordinance relating to the definition of Comptroller.

For these reasons I am of opinion that the decision of the learned trial Judge was right and the appeal must therefore be dismissed with costs.

Appeal dismissed.

Solicitors: *Elias Bros.; State Advocate-General.*

RAJARATNAM v. GUNN LAY TEIK & ANOR.

[C.A. (Thomson C.J., Good J.A. and Ismail Khan J.) March 3, 1961]

[K.L. — F.M. Civil Appeal No. 63 of 1960]

Landlord and tenant — Recovery of possession — Suitable alternative accommodation — Reasonableness — Control of Rent Ordinance, 1956, s.12(1)(n) — Rent control legislation — Intention.

Practice and Procedure — Appeal — Interference with findings of facts.

The respondent-landlords claimed possession of their premises from the appellant who had continued in occupation as statutory tenant after the determination of her tenancy. The premises in question were premises coming within the provisions of the Control of Rent Ordinance. The only issue for determination was whether or not the respondents had succeeded in establishing a case for recovery of possession under the provisions of section 12(1)(n) of the Ordinance. The respondents contended that they required the premises for the purposes of setting up a medical practice for their son. The appellant stated that although she had built on her own site close by to the premises in question a new building this was meant to be a nursing home and clinic and was unsuitable as a place for a general practitioner.

Held: (1) as the appellant was enriching herself by putting her own property for rent at uncontrolled rates while retaining rent-controlled premises for herself, it was reasonable for the Court to make the order prayed for;

(2) the appellant's own premises was even better suited for her purposes than the older one: the appellant would suffer no loss of goodwill by removing her practice to the new premises;

(3) therefore the Court was satisfied that suitable alternative accommodation was available to the tenant.

Per Ong J. in the Court below: "Rent control legislation is intended to protect tenants, and not merely to penalise landlords. . . . . I, for one, will not lend the assistance of the Court to any tenant abusing the provisions of the Control of Rent Ordinance for profiteering at the landlord's expense. . . . . Trafficking in houses by a tenant whether in her own name, or under the guise of a company incorporated with that object, should disentitle such tenant to any protection of the Control of Rent Ordinance."